1	HOUSE BILL NO. 294
2	INTRODUCED BY D. LEWIS, BECK, R. BROWN, CALLAHAN, CLANCY, P. CLARK, COCCHIARELLA,
3	R. ERICKSON, ESP, FACEY, G. FORRESTER, GALLIK, GALLUS, GALVIN-HALCRO, GILLAN, GRIMES,
4	HALLIGAN, HARGROVE, HARRINGTON, JACOBSON, JENT, KEANE, KEENAN, LASLOVICH,
5	LENHART, LINDEEN, MASOLO, MATTHEWS, MCCARTHY, MCGEE, MCKENNEY, D. MOOD,
6	NEWMAN, RASER, RYAN, SHEA, SLITER, STONINGTON, B. THOMAS, TOOLE, J. TROPILA,
7	WANZENRIED, WATERMAN, C. YOUNKIN
8	
9	A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO PUBLIC EMPLOYEE RETIREMENT SYSTEM
10	BENEFITS; AMENDING DEFINITIONS; PROVIDING FOR A PURCHASING POWER ADJUSTMENT IN
11	BENEFITS PAID BY THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; REQUIRING AN INCREASE IN THE
12	GUARANTEED ANNUAL BENEFIT ADJUSTMENT FOR MEMBERS OF CERTAIN PUBLIC EMPLOYEE
13	RETIREMENT SYSTEMS; PROVIDING AN ELECTION BETWEEN THE GUARANTEED ANNUAL BENEFIT
14	ADJUSTMENT AND OTHER ADJUSTMENTS IN RETIREMENT BENEFIT FOR MEMBERS OF CERTAIN
15	PUBLIC EMPLOYEE RETIREMENT SYSTEMS; INCREASING THE MINIMUM MONTHLY BENEFIT
16	ALLOWANCE FOR RETIREES AND BENEFICIARIES OF THE TEACHERS' RETIREMENT SYSTEM;
17	AUTHORIZING UPON CERTAIN CONDITIONS AN INCREASE IN THE GUARANTEED ANNUAL BENEFIT
18	ADJUSTMENT FOR THE TEACHERS' RETIREMENT SYSTEM; AMENDING SECTIONS 19-2-303, 19-3-108,
19	19-3-1605, 19-5-901, 19-6-101, 19-6-710, 19-7-101, 19-7-711, 19-8-101, 19-8-1105, 19-9-1009,
20	19-9-1010, 19-13-1010, 19-20-622, AND 19-20-719, MCA; AND PROVIDING AN IMMEDIATE
21	EFFECTIVE DATE."
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23	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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25	Section 1. Section 19-2-303, MCA, is amended to read:
26	"19-2-303. (Temporary) Definitions. Unless the context requires otherwise, for each of the
27	retirement systems subject to this chapter, the following definitions apply:
28	(1) "Accumulated contributions" means the sum of all the regular and any additional contributions
29	made by a member in a system, together with the regular interest on the contributions.
30	(2) "Active member" means a member who is a paid employee of an employer, is making the
	Legislative

1 required contributions, and is properly reported to the board for the most current reporting period.

(3) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory manner to represent the present value of the benefits to be derived from the additional service to be credited based on the most recent actuarial valuation for the system and the age, years until retirement, and current salary of the member.

- (4) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the 1971 Group Annuity Mortality Table, with ages set back 4 years and an interest rate of 8% compounded annually mortality table and interest rate assumptions adopted by the board.
- 9 (5) "Actuarial liabilities" means the excess of the present value of all benefits payable under a 10 retirement system over the present value of future normal costs in that retirement system.
 - (6) "Actuary" means the actuary retained by the board in accordance with 19-2-405.
 - (7) "Additional contributions" means contributions made by a member to purchase various types of optional service credit as allowed by the applicable retirement system.
 - (8) "Annuity" means equal and fixed payments for life that are the actuarial equivalent of a lump-sum payment under a retirement system and as such are not benefits paid by a retirement system and are not subject to periodic or one-time increases.
 - (9) "Benefit" means the service or disability retirement or survivorship benefit payment provided by a retirement system.
 - (10) "Board" means the public employees' retirement board provided for in 2-15-1009.
- 20 (11) "Contingent annuitant" means a person designated to receive a continuing monthly benefit after the death of a retired member.
 - (12) "Credited service" or "service credit" means the periods of time for which the required contributions have been made to a retirement system and that are used to calculate service or disability retirement or survivorship benefits under a retirement system.
 - (13) "Department" means the department of administration.
 - (14) "Designated beneficiary" means the person designated by a member or payment recipient to receive any survivorship benefits or lump-sum payments upon the death of the member or payment recipient, including annuities derived from the benefits or payments.
- 29 (15) "Disability" means a total inability of the member to perform the member's duties by reason 30 of physical or mental incapacity. The disability must be incurred while the member is an active member



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and must be one of permanent duration or of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.

- 3 (16) "Employee" means a person who is employed by an employer in any capacity and whose 4 salary is being paid by the employer.
- 5 (17) "Employer" means a governmental entity participating in a retirement system enumerated in 6 19-2-302 on behalf of its eligible employees.
- 7 (18) "Essential elements of the position" means fundamental job duties. An element may be 8 considered essential because of but not limited to the following factors:
- 9 (a) the position exists to perform the element;
- 10 (b) there are a limited number of employees to perform the element; or
- 11 (c) the element is highly specialized.
- 12 (19) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the 13 following June 30.
- 14 (20) "Inactive member" means a member who is not an active or retired member.
- 15 (21) "Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as 16 applicable to a retirement system, as that code provided on July 1, 1999.
 - (22) "Member" means any person with accumulated contributions and service credited with a retirement system or receiving a retirement benefit on account of the person's previous service credited in a retirement system.
- 20 (23) "Membership service" or "years of service" means the periods of service that are used to determine eligibility for retirement or other benefits.
 - (24) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost method required to fund accruing benefits for members of a retirement system during any year in the future. Normal cost does not include any portion of the supplemental costs of a retirement system.
- (25) "Pension" means benefit payments for life derived from contributions to a system made from
 state- or employer-controlled funds.
- 27 (26) "Pension trust fund" means a fund established to hold the contributions, income, and assets 28 of a retirement system in public trust.
- 29 (27) "Regular contributions" means contributions required from members under a retirement 30 system.



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- 1 (28) "Regular interest" means interest at the rate set from time to time by the board.
- 2 (29) "Retirement" or "retired" means the status of a member who has been terminated from 3 service for at least 30 days and has received and accepted a retirement benefit from a retirement system.
 - (30) "Retirement benefit" means the periodic benefit payable as a result of service, early, or disability retirement under a retirement system. An annuity is not a retirement benefit.
- 6 (31) "Retirement system" or "system" means one of the public employee retirement systems 7 enumerated in 19-2-302.
- 8 (32) "Service" means employment of an employee in a position covered by a retirement system.
 - (33) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member of the highway patrol officers', municipal police officers', or firefighters' unified retirement system who are statutorily designated to receive benefits upon the death of the member.
 - (34) "Supplemental cost" means an element of the total actuarial cost of a retirement system arising from benefits payable for service performed prior to the inception of the retirement system or prior to the date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in the unfunded actuarial liabilities of the retirement system.
 - (35) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a deceased member who died while in service under a retirement system.
 - (36) "Termination of employment" or "termination of service" means that the member has severed the employment relationship with the employer and has been paid all compensation due upon termination of employment, including but not limited to payment of accrued annual leave credits, as provided in 2-18-617, and payment of accrued sick leave credits, as provided in 2-18-618. For purposes of this subsection, compensation as a result of legal action, court order, appeal, or settlement to which the board was not party is not a payment due upon termination.
 - (37) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a retirement system's actuarial liabilities at any given point in time over the value of its cash and investments on that same date.
- 28 (38) "Vested member" or "vested" means a member or the status of a member who has attained 29 the minimum membership service requirements to be eligible for retirement benefits under a retirement 30 system.



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(39) "Written application" means a written instrument, specified by the board, properly executed, and filed with the board, that contains all the information required by the board, including documentation that the board considers necessary.

- 19-2-303. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier)

 Definitions. Unless the context requires otherwise, for each of the retirement systems subject to this chapter, the following definitions apply:
 - (1) "Account balance" means all contributions, income, and other assets in a retirement account that have, pursuant to 19-3-2116, vested to a member of the defined contribution plan.
 - (2) "Accumulated contributions" means the sum of all the regular and any additional contributions made by a member in a defined benefit plan, together with the regular interest on the contributions.
 - (3) "Active member" means a member who is a paid employee of an employer, is making the required contributions, and is properly reported to the board for the most current reporting period.
 - (4) "Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory manner to represent the present value of the benefits to be derived from the additional service to be credited based on the most recent actuarial valuation for the system and the age, years until retirement, and current salary of the member.
 - (5) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the 1971 Group Annuity Mortality Table, with ages set back 4 years and an interest rate of 8% compounded annually mortality table and interest rate assumptions adopted by the board.
 - (6) "Actuarial liabilities" means the excess of the present value of all benefits payable under a defined benefit retirement plan over the present value of future normal costs in that retirement plan.
 - (7) "Actuary" means the actuary retained by the board in accordance with 19-2-405.
 - (8) "Additional contributions" means contributions made by a member of a defined benefit plan to purchase various types of optional service credit as allowed by the applicable retirement plan.
 - (9) "Annuity" means:
 - (a) in the case of a defined benefit plan, equal and fixed payments for life that are the actuarial equivalent of a lump-sum payment under a retirement plan and as such are not benefits paid by a retirement plan and are not subject to periodic or one-time increases; or
- 29 (b) in the case of the defined contribution plan, a payment of a fixed sum of money at regular 30 intervals.



1 (10) "Benefit" means:

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- 2 (a) the service or disability retirement or survivorship benefit payment provided by a defined 3 benefit retirement plan; or
- 4 (b) a payment or distribution under the defined contribution retirement plan for the exclusive 5 benefit of a plan member or the member's beneficiary or an annuity purchased under 19-3-2124.
- 6 (11) "Board" means the public employees' retirement board provided for in 2-15-1009.
- 7 (12) "Contingent annuitant" means a person designated to receive a continuing monthly benefit 8 after the death of a retired member.
- 9 (13) "Covered employment" means employment in a covered position.
- 10 (14) "Covered position" means a position in which the employee must be a member of the 11 retirement system except as otherwise provided by law.
 - (15) "Credited service" or "service credit" means the periods of time for which the required contributions have been made to a retirement plan and that are used to calculate service or disability retirement or survivorship benefits under a defined benefit retirement plan.
 - (16) "Defined benefit retirement plan" or "defined benefit plan" means a plan within the retirement systems provided for pursuant to 19-2-302 that is not the defined contribution retirement plan.
 - (17) "Defined contribution retirement plan" or "defined contribution plan" means the plan within the public employees' retirement system established in 19-3-103 that is provided for in chapter 3, part 21, of this title and that is not a defined benefit plan.
- 20 (18) "Department" means the department of administration.
 - (19) "Designated beneficiary" means the person designated by a member or payment recipient to receive any survivorship benefits, lump-sum payments, or benefit from a retirement account upon the death of the member or payment recipient, including annuities derived from the benefits or payments.
 - (20) "Disability" means a total inability of the member to perform the member's duties by reason of physical or mental incapacity. The disability must be incurred while the member is an active member and must be one of permanent duration or of extended and uncertain duration, as determined by the board on the basis of competent medical opinion.
- 28 (21) "Employee" means a person who is employed by an employer in any capacity and whose 29 salary is being paid by the employer.
- 30 (22) "Employer" means a governmental entity participating in a retirement system enumerated in



- 1 19-2-302 on behalf of its eligible employees.
- 2 (23) "Essential elements of the position" means fundamental job duties. An element may be 3 considered essential because of but not limited to the following factors:
- 4 (a) the position exists to perform the element;
- 5 (b) there are a limited number of employees to perform the element; or
- 6 (c) the element is highly specialized.
- 7 (24) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the 8 following June 30.
- 9 (25) "Inactive member" means a member who is not an active or retired member.
- 10 (26) "Internal Revenue Code" means the federal Internal Revenue Code of 1954 or 1986, as 11 applicable to a retirement system, as that code provided on July 1, 1999.
- 12 (27) "Member" means either:

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- (a) a person with accumulated contributions and service credited with a defined benefit retirement
 plan or receiving a retirement benefit on account of the person's previous service credited in a retirement
 system; or
- 16 (b) a person with a retirement account in the defined contribution plan.
 - (28) "Membership service" or "years of service" means the periods of service that are used to determine eligibility for retirement or other benefits.
 - (29) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost method required to fund accruing benefits for members of a defined benefit retirement plan during any year in the future. Normal cost does not include any portion of the supplemental costs of a retirement plan.
 - (30) "Pension" means benefit payments for life derived from contributions to a retirement plan made from state- or employer-controlled funds.
 - (31) "Pension trust fund" means a fund established to hold the contributions, income, and assets of a retirement system or plan in public trust.
 - (32) "Plan choice rate" means the amount of the employer contribution as a percentage of payroll covered by the defined contribution plan members that is allocated to the public employees' retirement system's defined benefit plan pursuant to 19-3-2117 and that is adjusted by the board pursuant to 19-3-2121 to actuarially fund the unfunded liabilities and the normal cost rate changes in a defined benefit plan resulting from member selection of the defined contribution plan.



1 (33) "Regular contributions" means contributions required from members under a retirement plan.

- 2 (34) "Regular interest" means interest at the rate set from time to time by the board.
- 3 (35) "Retirement" or "retired" means the status of a member who has been terminated from 4 service for at least 30 days and has received and accepted a retirement benefit from a retirement plan.
- 5 (36) "Retirement account" means an individual account within the defined contribution retirement 6 plan for the deposit of employer and employee contributions and other assets for the exclusive benefit of 7 a member of the defined contribution plan or the member's beneficiary.
 - (37) "Retirement benefit" means:

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- (a) in the case of a defined benefit plan, the periodic benefit payable as a result of service, early, or disability retirement under a defined benefit plan of a retirement system. With respect to a defined benefit plan, the term does not mean an annuity.
 - (b) in the case of the defined contribution plan, a benefit as defined in subsection (10)(b).
- (38) "Retirement system" or "system" means one of the public employee retirement systems enumerated in 19-2-302.
 - (39) "Service" means employment of an employee in a position covered by a retirement system.
- (40) "Statutory beneficiary" means the surviving spouse or dependent child or children of a member of the highway patrol officers', municipal police officers', or firefighters' unified retirement system who are statutorily designated to receive benefits upon the death of the member.
- (41) "Supplemental cost" means an element of the total actuarial cost of a defined benefit retirement plan arising from benefits payable for service performed prior to the inception of the retirement plan or prior to the date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure to fund or otherwise recognize normal cost accruals or interest on supplemental costs. These costs are included in the unfunded actuarial liabilities of the retirement plan.
- (42) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a deceased member who died while in service under a defined benefit retirement plan.
- (43) "Termination of employment" or "termination of service" means that the member has severed the employment relationship with the employer and has been paid all compensation due upon termination of employment, including but not limited to payment of accrued annual leave credits, as provided in 2-18-617, and payment of accrued sick leave credits, as provided in 2-18-618. For purposes of this subsection, compensation as a result of legal action, court order, appeal, or settlement to which the board



1 was not party is not a payment due upon termination.

(44) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined benefit retirement plan's actuarial liabilities at any given point in time over the value of its cash and investments on that same date.

- (45) "Vested member" or "vested" means:
- 6 (a) with respect to a defined benefit plan, a member or the status of a member who has attained
 7 the minimum membership service requirements to be eligible for retirement benefits under the retirement
 8 plan; or
- 9 (b) with respect to the defined contribution plan, a member or the status of a member who, 10 pursuant to 19-3-2116, is entitled to employer contributions and income on those contributions in the 11 member's retirement account.
 - (46) "Written application" means a written instrument, specified by the board, properly executed, and filed with the board, that contains all the information required by the board, including documentation that the board considers necessary."

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- **Section 2**. Section 19-3-108, MCA, is amended to read:
- 17 "19-3-108. (Temporary) Definitions. Unless the context requires otherwise, as used in this chapter, the following definitions apply:
 - (1) (a) "Compensation" means remuneration paid out of funds controlled by an employer in payment for the member's services, or for time during which the member is excused from work because of a holiday or because the member has taken compensatory leave, sick leave, annual leave, or a leave of absence, before any pretax deductions allowed by state or federal law are made.
- 23 (b) Compensation does not include:
- 24 (i) the payments or contributions made in lieu of wages for an individual subject to 19-3-403(4)(a):
- 25 (ii) in-kind goods provided by the employer, such as uniforms, housing, transportation, or meals;
- 26 (iii) in-kind services, such as the retraining allowance paid pursuant to 2-18-622, or employment-related services;
- 28 (iv) contributions to group insurance, such as that provided under 2-18-701 through 2-18-704; and
- 29 <u>(v) lump-sum payments for compensatory leave, sick leave, or annual leave paid without</u> 30 termination of employment.



1 (2) "Contracting employer" means any political subdivision or governmental entity that has 2 contracted to come into the system under this chapter.

- (3) "Employer" means the state of Montana, its university system or any of the colleges, schools, components, or units of the university system for the purposes of this chapter, or any contracting employer, except that a nonprofit mental health corporation established pursuant to 53-21-204 may not be an employer with regard to employees hired after June 30, 1999.
- (4) "Employer contributions" means payments to the pension trust fund pursuant to 19-3-316 from appropriations of the state of Montana and from contracting employers.
- (5) "Final average salary" means a member's highest average monthly compensation during any 36 consecutive months of membership service. Lump-sum payments for severance pay, <u>including compensatory leave</u>, sick leave, and annual leave, paid to the member upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the regular compensation for a month or months included in the calculation of the final average salary. A lump-sum payment may not be added to a single month's compensation.
- 19-3-108. (Effective on occurrence of contingency or July 1, 2002, whichever is earlier)

 Definitions. Unless the context requires otherwise, as used in this chapter, the following definitions apply:
- (1) (a) "Compensation" means remuneration paid out of funds controlled by an employer in payment for the member's services, or for time during which the member is excused from work because of a holiday or because the member has taken compensatory leave, sick leave, annual leave, or a leave of absence, before any pretax deductions allowed by state or federal law are made.
- 21 (b) Compensation does not include:
- 22 (i) the payments or contributions made in lieu of wages for an individual subject to 19-3-403(4)(a);
- 23 (ii) in-kind goods provided by the employer, such as uniforms, housing, transportation, or meals;
- 24 (iii) in-kind services, such as the retraining allowance paid pursuant to 2-18-622, or 25 employment-related services;

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- 26 (iv) contributions to group insurance, such as that provided under 2-18-701 through 2-18-704; and
- 27 (v) lump-sum payments for compensatory leave, sick leave, or annual leave paid without
- 28 <u>termination of employment</u>.
- 29 (2) "Contracting employer" means any political subdivision or governmental entity that has 30 contracted to come into the system under this chapter.



(3) "Defined benefit plan" means the plan within the public employees' retirement system established in 19-3-103 that is not the defined contribution plan.

- (4) "Employer" means the state of Montana, its university system or any of the colleges, schools, components, or units of the university system for the purposes of this chapter, or any contracting employer, except that a nonprofit mental health corporation established pursuant to 53-21-204 may not be an employer with regard to employees hired after June 30, 1999.
- (5) "Employer contributions" means payments to a pension trust fund pursuant to 19-3-316 from appropriations of the state of Montana and from contracting employers.
- (6) "Final average salary" means a member's highest average monthly compensation during any 36 consecutive months of membership service. Lump-sum payments for severance pay, including payment for compensatory leave, sick leave, and annual leave, paid to the member upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the regular compensation for a month or months included in the calculation of the final average salary. A lump-sum payment may not be added to a single month's compensation.
- (7) "System" or "retirement system" means the public employees' retirement system established in 19-3-103." 16

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- **Section 3**. Section 19-3-1605, MCA, is amended to read:
- "19-3-1605. Guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 1.5% 3%.
- (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 1.5% 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 1.5% 3% in the benefit paid since the preceding January.
- (b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 1.5% 3% annualized increase, then the benefit increase provided under this section must be 0%.
- (c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the original payee that occurred since the preceding January, the new recipient's monthly benefit must



be increased to 1.5% 3% more than the amount that the contingent annuitant would have received had
 the contingent annuitant received a benefit during the preceding January.

- (3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:
- (a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made; and
- 7 (b) the benefit recipient is not an active member of a public retirement system covered by this 8 title.
 - (4) The board shall adopt rules to administer the provisions of this section."

NEW SECTION. Section 4. Purchasing power adjustment. Beginning with the July 2001 benefit, the board shall provide an ad hoc benefit increase to retired members and beneficiaries of the retirement system receiving a monthly retirement benefit. The ad hoc benefit increase must be calculated by the board actuary and approved by the board. The benefit increase must be designed to bring the benefit recipient's current benefit up to a level estimated to be no less than 75% of the purchasing power of the original recipient's initial monthly benefit. Purchasing power must be calculated considering the date that the first benefit was paid to the original benefit recipient, applicable benefit increases since that date, and a comparison with the consumer price index for urban wage earners and workers, compiled by the bureau of labor statistics of the United States department of labor since the date the first benefit was paid to the original benefit recipient.

Section 5. Section 19-5-901, MCA, is amended to read:

"19-5-901. Guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 1.5% 3%.

- (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 1.5% 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 1.5% 3% in the benefit paid since the preceding January.
 - (b) If a recipient's benefit payable during the preceding January has been increased by one or more



adjustments not provided for in this section and the increases amount to more than a 1.5% 3% annualized increase, then the benefit increase provided under this section must be 0%.

- (c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased to 1.5% 3.0% more than the amount that the contingent annuitant would have received had the contingent annuitant received a benefit during the preceding January.
- 7 (3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the 8 minimum annual benefit adjustment provided for in this section if:
 - (a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made;
- 11 (b) the benefit recipient is not an active member of a public retirement system covered by this 12 title: and
 - (c) the member or benefit recipient either:
- 14 (i) first became an active member on or after July 1, 1997; or
- 15 (ii) filed a voluntary, irrevocable election to be covered under this section. The election must be 16 filed with the board prior to January 1, 1998.
 - (4) The board shall adopt rules to administer the provisions of this section."

NEW SECTION. Section 6. Election -- guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding

21 January to each recipient who is eligible under subsection (3) must be increased by 3%.

- (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% in the benefit paid since the preceding January.
- (b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 3% annualized increase, then the benefit increase provided under this section must be 0%.
- 29 (3) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment 30 provided for in this section if:



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1 (a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which 2 the adjustment is to be made; and

- 3 (b) the member either:
- 4 (i) first became an active member on or after July 1, 1997; or
- 5 (ii) filed a voluntary, irrevocable election to be covered under this section. The election:
- 6 (A) must be filed with the board prior to December 1, 2001; and
- 7 (B) requires an active member to pay an increased or revised contribution rate from January 1,
- 8 2002, forward.
- 9 (4) The board shall adopt rules to administer the provisions of this section.
- 10 (5) The decision of a member who elected to participate under 19-5-901 remains valid. The decision of a member who elected not to participate under 19-5-901 may be reversed under this section.

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- **Section 7**. Section 19-6-101, MCA, is amended to read:
- "19-6-101. Definitions. Unless the context requires otherwise, the following definitions apply inthis chapter:
- 16 (1) "Compensation" means remuneration paid for services to a member out of funds controlled 17 by an employer before any pretax deductions allowed by the Internal Revenue Code have been made and 18 exclusive of maintenance, allowances, and expenses.
 - (2) "Dependent child" means an unmarried child of a deceased retired member, who is:
- 20 (a) under 18 years of age; or
- 21 (b) under 24 years of age and attending an accredited postsecondary educational institution as 22 a full-time student in anticipation of receiving a certificate or degree.
 - (3) "Final average salary" means the average monthly compensation received by a member for any 3 years of continuous service upon which contributions have been made or, in the event a member has not served 3 years, the total compensation earned divided by the number of months served. Lump-sum payments for severance pay, including payment for compensatory leave, sick leave, and annual leave, paid to an employee upon termination of service may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the final average salary. A lump-sum payment may not be added to a single month's compensation.

1 (4) "Surviving spouse" means the spouse married to a retired member at the time of the retired 2 member's death.

(5) "Survivor" means a surviving spouse or dependent child of a member."

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- **Section 8.** Section 19-6-710, MCA, is amended to read:
- "19-6-710. Guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 1.5% 3%.
 - (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 1.5% 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 1.5% 3% in the benefit paid since the preceding January.
 - (b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 1.5% 3% annualized increase, then the benefit increase provided under this section must be 0%.
 - (3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:
 - (a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made;
- 20 (b) the benefit recipient is not an active member of a public retirement system covered by this 21 title; and
- 22 (c) the member either:
- 23 (i) first became an active member on or after July 1, 1997; or
 - (ii) filed a voluntary, irrevocable election to be covered under this section. The election must be filed with the board prior to January 1, 1998, and requires an active member to pay an increased contribution rate from July 1, 1997, forward. A retired member or the member's survivor who is receiving a monthly benefit before July 1, 1997, shall also file the voluntary, irrevocable election no later than January 1, 1998, to be covered under this section.
- 29 (4) The board shall adopt rules to administer the provisions of this section."



NEW SECTION. Section 9. Election -- guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

- (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% in the benefit paid since the preceding January.
- 8 (b) If a recipient's benefit payable during the preceding January has been increased by one or more
 9 adjustments not provided for in this section and the increases amount to more than a 3% annualized
 10 increase, then the benefit increase provided under this section must be 0%.
- 11 (3) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment 12 provided for in this section if:
 - (a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made; and
- 15 (b) the member either:

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- 16 (i) first became an active member on or after July 1, 1997; or
- 17 (ii) filed a voluntary, irrevocable election to be covered under this section. The election:
- 18 (A) must be filed with the board prior to December 1, 2001; and
- 19 (B) requires an active member to pay an increased or revised contribution rate from January 1, 20 2002, forward.
- 21 (4) The board shall adopt rules to administer the provisions of this section.
- 22 (5) The decision of a member who elected to participate under 19-6-710 remains valid. The decision of a member who elected not to participate under 19-6-710 may be reversed under this section.
- Section 10. Section 19-7-101, MCA, is amended to read:
- "19-7-101. **Definitions.** Unless the context requires otherwise, the following definitions apply in this chapter:
- 28 (1) "Compensation" means remuneration paid for services to a member out of funds controlled 29 by an employer before any pretax deductions allowed by the Internal Revenue Code are made and 30 exclusive of maintenance, allowances, and expenses.

(2) "Final average salary" means the average monthly compensation received by a member for any 3 years of continuous service from which contributions were deducted or, in the event that a member has not served 3 years, the total compensation earned divided by the number of months served. Lump-sum payments for severance pay, including payment for compensatory leave, sick leave, and annual leave, paid to an employee upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the final average salary. A lump-sum payment may not be added to a single month's compensation.

- (3) "Investigator" means a person who is employed as a criminal investigator or as a gambling investigator for the department of justice.
- (4) "Sheriff" means any elected or appointed county sheriff or undersheriff or any appointed, lawfully trained, appropriately salaried, and regularly acting deputy sheriff. The board shall adopt rules incorporating both the peace officers standards and training council's current law enforcement training requirements and the legislatively authorized salary requirements as effective for deputy sheriffs who are eligible for membership in this retirement system."

Section 11. Section 19-7-711, MCA, is amended to read:

"19-7-711. Guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by $\frac{1.5\%}{3\%}$.

- (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 1.5% 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 1.5% 3% in the benefit paid since the preceding January.
- (b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 1.5% 3% annualized increase, then the benefit increase provided under this section must be 0%.
- (c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased to 1.5% 3% more than the amount that the contingent annuitant would have received had



- 1 the contingent annuitant received a benefit during the preceding January.
- 2 (3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the 3 minimum annual benefit adjustment provided for in this section if:
- 4 (a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which 5 the adjustment is to be made; and
- 6 (b) the benefit recipient is not an active member of a public retirement system covered by this 7 title.
- 8 (4) The board shall adopt rules to administer the provisions of this section."

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- 10 **Section 12**. Section 19-8-101, MCA, is amended to read:
- "19-8-101. Definitions. Unless the context requires otherwise, the following definitions apply inthis chapter:
 - (1) "Compensation" means remuneration paid for services to a member out of funds controlled by an employer before any pretax deductions allowed by the Internal Revenue Code are made and exclusive of maintenance, allowances, and expenses.
 - (2) "Final average salary" means the average monthly compensation received by a member for any 3 years of continuous service upon which contributions were made or, in the event a member has not served 3 years, the total compensation earned divided by the number of months served. Lump-sum payments for severance pay, including payment for compensatory leave, sick leave, and annual leave, paid to an employee upon termination of employment may be used in the calculation of a retirement benefit only to the extent that they are used to replace, on a month-for-month basis, the normal compensation for a month or months included in the calculation of the final average salary. A lump-sum payment may not be added to a single month's compensation.
 - (3) "Game warden" means a state fish and game warden hired by the department of fish, wildlife, and parks and includes all warden supervisory personnel whose salaries or compensation is paid out of the department of fish, wildlife, and parks money.
 - (4) "Motor carrier officer" means an employee of the department of transportation appointed as a peace officer pursuant to 61-12-201.
- 29 (5) "Peace officer" or "state peace officer" means a person who by virtue of the person's 30 employment with the state is vested by law with a duty to maintain public order or make arrests for



offenses while acting within the scope of the person's authority or who is charged with specific law enforcement responsibilities on behalf of the state."

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- Section 13. Section 19-8-1105, MCA, is amended to read:
- "19-8-1105. Guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 1.5% 3%.
- (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 1.5% 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 1.5% 3% in the benefit paid since the preceding January.
- (b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 1.5% 3% annualized increase, then the benefit increase provided under this section must be 0%.
- (c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the original payee that occurred since the preceding January, the new recipient's monthly benefit must be increased to 1.5% 3% more than the amount that the contingent annuitant would have received had the contingent annuitant received a benefit during the preceding January.
- (3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:
- (a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made; and
- 23 (b) the benefit recipient is not an active member of a public retirement system covered by this 24 title.
 - (4) The board shall adopt rules to administer the provisions of this section."

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- **Section 14.** Section 19-9-1009, MCA, is amended to read:
- "19-9-1009. Guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 1.5% 3%.



(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 1.5% 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 1.5% 3% in the benefit paid since the preceding January.

- (b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a $\frac{1.5\%}{3\%}$ annualized increase, then the benefit increase provided under this section must be 0%.
- (3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if:
- (a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made;
- 12 (b) the benefit recipient is not an active member of a public retirement system covered by this 13 title; and
- 14 (c) the member either:

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- (i) first became an active member on or after July 1, 1997; or
- (ii) filed a voluntary, irrevocable election to be covered under this section. The election must be filed with the board prior to January 1, 1998, and requires an active member to pay an increased contribution rate from July 1, 1997, forward. A retired member or the member's survivor who is receiving a monthly benefit before July 1, 1997, shall also file the voluntary, irrevocable election no later than January 1, 1998, to be covered under this section.
- 21 (4) The board shall adopt rules to administer the provisions of this section."

Section 15. Section 19-9-1010, MCA, is amended to read:

- "19-9-1010. Election -- guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 1.5% 3%.
- (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 1.5% 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 1.5% 3% in the benefit paid since the preceding January.



1 (b) If a recipient's benefit payable during the preceding January has been increased by one or more
2 adjustments not provided for in this section and the increases amount to more than a 1.5% 3% annualized
3 increase, then the benefit increase provided under this section must be 0%.

- 4 (3) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment 5 provided for in this section if:
 - (a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made; and
- 8 (b) the member either:
- 9 (i) first became an active member on or after July 1, 1997; or
- 10 (ii) filed a voluntary, irrevocable election to be covered under this section. The election:
- 11 (A) must be filed with the board prior to December 1, 1999; and
- 12 (B) requires an active member to pay an increased or revised contribution rate from January 1, 2000, forward.
 - (4) The board shall adopt rules to administer the provisions of this section.
 - (5) The decision of a member who elected to participate under 19-9-1009 remains valid. The decision of a member who elected not to participate under 19-9-1009 may be reversed under this section."

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- NEW SECTION. Section 16. Election -- guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.
- (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% in the benefit paid since the preceding January.
- (b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 3% annualized increase, then the benefit increase provided under this section must be 0%.
- 29 (3) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment 30 provided for in this section if:



1 (a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which 2 the adjustment is to be made; and

- 3 (b) the member either:
- 4 (i) first became an active member on or after July 1, 1997; or
- 5 (ii) filed a voluntary, irrevocable election to be covered under this section. The election:
- 6 (A) must be filed with the board prior to December 1, 2001; and
- 7 (B) requires an active member to pay an increased or revised contribution rate from January 1,
- 8 2002, forward.
- 9 (4) The board shall adopt rules to administer the provisions of this section.
- 10 (5) The decision of a member who elected to participate under 19-9-1009 or 19-9-1010 remains
 11 valid. The decision of a member who elected not to participate under 19-9-1009 and 19-9-1010 may be
 12 reversed under this section.

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- Section 17. Section 19-13-1010, MCA, is amended to read:
- "19-13-1010. Guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January
 16 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who
 17 is eligible under subsection (3) must be increased by 1.5% 3%.
 - (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 1.5% 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 1.5% 3% in the benefit paid since the preceding January.
 - (b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a $\frac{1.5\%}{3\%}$ annualized increase, then the benefit increase provided under this section must be 0%.
- 25 (3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the 26 minimum annual benefit adjustment provided for in this section if:
- 27 (a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which 28 the adjustment is to be made;
- 29 (b) the benefit recipient is not an active member of a public retirement system covered by this 30 title; and



- 1 (c) the member either:
- 2 (i) first became an active member on or after July 1, 1997; or

(ii) filed a voluntary, irrevocable election to be covered under this section. The election must be filed with the board prior to January 1, 1998, and requires an active member to pay an increased contribution rate from July 1, 1997, forward. A retired member or the member's survivor who is receiving a monthly benefit before July 1, 1997, shall also file the voluntary, irrevocable election no later than

January 1, 1998, to be covered under this section.

(4) The board shall adopt rules to administer the provisions of this section."

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<u>NEW SECTION.</u> Section 18. Election -- guaranteed annual benefit adjustment. (1) Subject to subsection (2), on January 1 of each year, the permanent monthly benefit payable during the preceding January to each recipient who is eligible under subsection (3) must be increased by 3%.

- (2) (a) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the adjustments amount to less than a 3% annualized increase, then the recipient's benefit must be adjusted by an amount that will provide a total annualized increase of 3% in the benefit paid since the preceding January.
- (b) If a recipient's benefit payable during the preceding January has been increased by one or more adjustments not provided for in this section and the increases amount to more than a 3% annualized increase, then the benefit increase provided under this section must be 0%.
- 20 (3) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment 21 provided for in this section if:
- (a) the benefit's commencement date is at least 36 months prior to January 1 of the year in which the adjustment is to be made; and
 - (b) the member either:
- 25 (i) first became an active member on or after July 1, 1997; or
- 26 (ii) filed a voluntary, irrevocable election to be covered under this section. The election:
- 27 (A) must be filed with the board prior to December 1, 2001; and
- 28 (B) requires an active member to pay an increased or revised contribution rate from January 1, 29 2002, forward.
 - (4) The board shall adopt rules to administer the provisions of this section.



(5) The decision of a member who elected to participate under 19-13-1010 remains valid. The decision of a member who elected not to participate under 19-13-1010 may be reversed under this section.

- Section 19. Section 19-20-622, MCA, is amended to read:
- "19-20-622. Minimum monthly benefit allowance. (1) A retired member of the retirement system who on July 1, 1999 2001, is receiving a service or disability retirement allowance that is less than \$500 \$600 is eligible to receive a minimum monthly benefit allowance of \$500 \$600 if the member at the time of retirement had 25 years or more of creditable service.
- (2) A beneficiary or beneficiaries of a deceased retired member who on July 1, 1999 2001, are receiving an optional service, disability, or survivorship allowance that when added together are less than \$500 \$600 are eligible to receive a proportional share of a minimum monthly benefit allowance of \$500 \$600 if the retired member at the time of retirement had 25 years or more of creditable service.
- (3) If on July 1, 1999 2001, multiple beneficiaries are receiving benefits under a retired member's account, the minimum monthly benefit must be divided in the same proportion as was the initial service, disability, or survivorship allowance."

- **Section 20.** Section 19-20-719, MCA, is amended to read:
- "19-20-719. Guaranteed annual benefit adjustment -- rulemaking. (1) On Subject to subsection

 (3), on January 1 of each year, the retirement allowance payable to each recipient who is eligible under subsection (2) must be increased by 1.5%.
 - (2) A benefit recipient is eligible for and must receive the minimum annual benefit adjustment provided for in this section if the retiree's most recent retirement effective date is at least 36 months prior to January 1 of the year in which the adjustment is to be made.
 - (3) On January 1, 2002, and January 1 of each year following the system's biennial valuation, the board may increase the annual benefit adjustment provided in subsection (1) until a maximum of 3% is guaranteed if:
 - (a) the period required to amortize the system's actuarial unfunded liability, as determined by the most recent biennial valuation, adjusted for any benefit enhancement enacted by the legislature since the most recent biennial valuation, is less than 25 years;



1	(b) sufficient funds are available to increase the guaranteed annual benefit adjustment by at least
2	0.1%; and
3	(c) the increase granted by the board would not cause the amortization period, as of the most
4	recent valuation, to exceed 25 years.
5	(4) The board shall adopt rules to administer the provisions of this section."
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7	NEW SECTION. Section 21. Codification instruction. (1) [Section 4] is intended to be codified
8	as an integral part of Title 19, chapter 3, part 16, and the provisions of Title 19, chapter 3, part 16, apply
9	to [section 4].
10	(2) [Section 6] is intended to be codified as an integral part of Title 19, chapter 5, part 9, and the
11	provisions of Title 19, chapter 5, part 9, apply to [section 6].
12	(3) [Section 9] is intended to be codified as an integral part of Title 19, chapter 6, part 7, and the
13	provisions of Title 19, chapter 6, part 7, apply to [section 9].
14	(4) [Section 16] is intended to be codified as an integral part of Title 19, chapter 9, part 10, and
15	the provisions of Title 19, chapter 9, part 10, apply to [section 16].
16	(5) [Section 18] is intended to be codified as an integral part of Title 19, chapter 13, part 10, and
17	the provisions of Title 19, chapter 13, part 10, apply to [section 18].
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19	NEW SECTION. Section 22. Effective date. [This act] is effective on passage and approval.
20	- END -

